

THE STATE INTELLECTUAL PROPERTY OFFICE OF CHINA

Address: Receiving Department of The State Intellectual Property Office (SIPO)

6 Xitucheng Road, Haidian, Beijing

Postal Code: 100088

| | | |
|----------------------------------|--|------------------------------------|
| Applicant | NTT DoCoMo, Inc. | Date of Issue: May 11, 2007 |
| Patent Agent | Beijing Sanyou Intellectual Property Agency Ltd. | |
| Filing No. of Patent Application | 03813088.2 | |
| Title of Invention | Electronic mail distribution method, communication terminal, and server device | |

FIRST NOTIFICATION OF OFFICE ACTION (PCT APPLICATION ENTRY INTO THE NATIONAL PHASE)

- ☒ The examiner has made the examination on the above cited patent application in accordance with the provision in paragraph 1, Article 35 of the Chinese Patent Law.
☐ The SIPO uses its own discretion to make a substantive examination for the above cited patent application on the basis of the provision in paragraph 2, Article 35 of the Chinese Patent Law.
- ☒ The applicant designated the filing date of
June 6, 2002 in the Patent Office of JP as the priority date;
 _____ in the Patent Office of _____ as the priority date;
 _____ in the Patent Office of _____ as the priority date;
- ☐ The following amended text(s) is not in conformity with the provision of Article 33 of the Chinese Patent Law and therefore is (are) unacceptable:
 - ☐ Chinese translation of Annexes to the IPE Report.
 - ☐ Chinese translation of the amendment under Article 19 of PCT.
 - ☐ The amendment under Article 28 or 41 of PCT.
 - ☐ The amendment under Rule 51 of the Implementing Regulations of the Chinese patent Law.
- ☒ Examination is made based on Chinese translation of PCT appln. as originally filed.
☐ Examination is made based on the following documents:
 - ☐ the description, pages _____, as indicated in Chinese translation of PCT appln. as originally filed;
 _____ pages _____, as indicated in the Chinese translation of the annexes to IPE Report;
 _____ pages _____, as indicated in the amendment under Article 28 or 41 of PCT;
 _____ pages _____, as indicated in the amendment under Rule 51 of the Implementing Regulations of the PRC Patent Law.
 - ☐ the claims, claims _____, as indicated in Chinese translation of PCT appln. as originally filed;
 _____ claims _____, as indicated in Chinese translation of the amendment under Article 19 of PCT;
 _____ claims _____, as indicated in the Chinese translation of the annexes to IPE Report;
 _____ claims _____, as indicated in the amendment under Article 28 or 41 of PCT;
 _____ claims _____, as indicated in the amendment under Rule 51 of the Implementing Regulations of the PRC Patent Law.
 - ☐ the drawings, pages _____, as indicated in Chinese translation of PCT

pages _____, appln. as originally filed;
 as indicated in the Chinese translation of the
 annexes to IPE Report;
 pages _____, as indicated in the amendment under Article
 28 or 41 of PCT;
 pages _____, as indicated in the amendment under Rule
 51 of the Implementing Regulations of the
 PRC Patent Law.

- ☒ The following reference materials have been cited in this notification (their serial numbers will be referred to in the following procedure):

| Serial Number | Number or Title of Reference Material | Publication Date (or Filing Date of A Conflict Patent Application) |
|---------------|---------------------------------------|--|
| 1 | JP11272582A | Oct. 8, 1999 |
| 2 | CN1303201A | July 11, 2001 |
| 3 | CN1293851A | May 2, 2001 |
| 4 | JP2002149458A | May 24, 2002 |
| | | |

5. The conclusion of the examination:

- ☐ In regard to the description:

- ☐ The subject matter of the present application is not accepted based on the Article 5 of the PRC Patent Law.
☐ The description is not in conformity with the provision of paragraph 3, Article 26 of the PRC Patent Law.
☐ The description is not in conformity with the provision of Article 33 of Chinese Patent Law.
☐ The presentation of the description is not in conformity with the provision of Rule 18 of the Implementing Regulations of the Chinese Patent Law.

- ☒ In regard to the Claims:

- ☐ Claims _____ can not be allowed owing to lack of novelty based on the provision _____ of paragraph 2, Article 22 of Chinese Patent Law.
☒ Claims 1-12 can not be allowed owing to lack of inventiveness based on the provision of paragraph 3, Article 22 of Chinese Patent Law.
☐ Claims _____ cannot be allowed owing to lack of practical applicability based on the provision of paragraph 4, Article 22 of Chinese Patent Law.
☐ Claims _____ can not be allowed because they fall in the scope of the unpatentable subject matters provided by Article 25 of the Chinese Patent Law.
☐ Claims _____ cannot be allowed because they are not in conformity with the provision of paragraph 4, Article 26 of Chinese Patent Law.
☐ Claims _____ cannot be allowed based on the provision of paragraph 1, Article 31 of Chinese Patent Law.
☐ Claims _____ cannot be allowed based on the provision of Article 33 of Chinese Patent Law.
☐ Claims _____ can not be allowed because they claim an invention(s) that does not belong to the invention defined by the provision of paragraph 1, Rule 2 of the Implementing Regulations of the Chinese Patent Law.
☐ Claims _____ cannot be allowed based on the provision of paragraph 1, Rule 13 of the Implementing Regulations of the Chinese Patent Law.
☐ Claims _____ cannot be allowed based on the provision of Rules 20 of the Implementing Regulations of the Chinese Patent Law.
☐ Claims _____ cannot be allowed based on the provision of Rules 21 of the Implementing Regulations of the Chinese Patent Law.
☐ Claims _____ cannot be allowed based on the provision of Rules 22 of the Implementing Regulations of the Chinese Patent Law.

- ☐ Claims _____ cannot be allowed based on the provision of Rules 23 of the Implementing Regulations of the Chinese Patent Law.

☐

6. According to the above conclusion, the examiner holds that

- ☐ the applicant should amend the application documents based on the requirement specified in the Attachment Sheet.
- ☐ the applicant should state the reason on which the application can be accepted and amend the part that is indicated not to be in conformity with the requirement, otherwise the application will be rejected.
- ☒ No subject matter in the application is patentable, said application will be rejected if the applicant does not make a statement or the statement is not convincing.
- ☐

7. The applicant's attention is drawn to the fact that

- (1) in accordance with the provision of Article 37 of the Chinese Patent Law, the applicant shall submit the observations within FOUR months from the date of receiving this notification. If the applicant, without any justified reason, fails to reply within the time limit, the application shall be deemed to have been withdrawn.
- (2) the amendment that shall be in conformity with the provision of Article 33 of the Chinese Patent Law. The amended text shall be furnished in duplicate. The formality of the amendment should be in conformity with the relevant provisions of the Guidebook for Examination.
- (3) any response and/or amended specification must be furnished by mail or by hand to the Receiving Department of the SIPO. Any documents that are not furnished to the Receiving Department do not have legal effect.
- (4) the applicant and/or his attorney should not go to the PRC Patent Office to meet the examiner if no appointment is made.

8. The text of the notification embraces 6 page(s), along with the enclosures herein:

- ☒ 4 copies of the Cited references are enclosed in pages of 29.

Your Ref.: PCT-3187CN(2003PF00054CN)

Our Ref.: P04JP114788

TEXT OF THE FIRST OFFICE ACTION

APPL. NO.: 038130882

The application relates to distribution of e-mail with file attachments to communication terminals. Upon examinations, opinions are given as follows:

1. Claim 1 does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law. Reference document 1 (JP11272582A; hereinafter referred to as D1) discloses an e-mail distribution method for sending e-mail with attachment files from an e-mail provision apparatus to a communication terminal, and specifically disclosed the following technical features (see the Description: paragraphs 0001, 0010 - 0025, 0034 - 0044; claims 4 - 11; Fig. 1): to obtain the identification information of the communication terminal, said information indicating the type of attachment file of e-mail that can be received by the communication terminal; to send the information from the communication terminal to the e-mail provision apparatus; and the e-mail provision apparatus receives said information; an obtaining restraint device 13 in the e-mail provision apparatus determines whether the type of an attachment file of e-mail, which is destined for the communication terminal, is consistent with that identified by the information; when the type of attachment file is inconsistent with that identified by the information, the e-mail will be sent from the e-mail provision apparatus to the communication terminal except the attachment file, and when the type of attachment file is consistent with that identified by the information, the e-mail will be sent to the communication terminal completely. Thus it can be seen that most technical features of claim 1 have been disclosed in D1.

Claim 1 is distinguished from D1 in that the type of attachment file of e-mail is the one that the user desires to receive, i.e., the receiving conditions are defined by the user, while in D1, the type of attachment file is the one that can be displayed by the communication terminal itself. However, this distinguishing feature has been disclosed in reference document 2 (CN1303201A; hereinafter referred to as D2) as follows (see the Description: page 2, lines 5-23; page 6, line 3 - page 7, line 14): the user device inputs the object character strings and the destination as the transferring conditions, the e-mail transferring device determines that the received e-mail conforms to the transferring conditions when it contains the object character strings that are used as the transferring conditions, and sends it to the destination, besides, this feature plays the same role in D2 as in this invention, both for inputting transferring conditions by the user, that is, D2 gives an enlightenment of applying the feature to D1 to solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2. Therefore, the claimed technical solution does not have a prominent substantive feature or an obvious progress, and hence not

possess inventiveness.

2. Claim 2 is dependent on claim 1, and the additional technical features of its characterizing portion have been disclosed in reference document 3 (CN1293851A; hereinafter referred to as D3) as follows (see the Description: page 2, lines 3-23; page 4 line 9 – page 8 line 5; claims 1-2): to send a delivery message acquisition request from a mobile terminal to a server, for capturing e-mails, a first information business message, a second information business message, etc. that are to be sent to the terminal, the request contains the type information of the information to be obtained by the mobile terminal, besides, the features play the same role in D3 as in this invention, both for the communication terminal to request obtaining the information of specific types, that is, D3 gives an enlightenment of applying the feature to the technical solution of claim 1 to further solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2 and D3. Therefore, when the claim as referred to has no inventiveness, dependent claim 2 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.
3. Claim 3 is dependent on claim 1, and the additional technical feature of its characterizing portion is a common knowledge in this field that the communication terminal can display text, image, etc. as per its functions, and when users desire to know the types of files available at the terminal, persons skilled in the art will easily conceive of displaying the file types, that is, the use of the common knowledge is obviously for the skilled persons. Therefore, when the claim as referred to has no inventiveness, dependent claim 3 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.
4. Claim 4 is dependent on claim 1, and the additional technical features of its characterizing portion have been disclosed in reference document 4 (JP2002149458A; hereinafter referred to as D4) as follows (see the Description: Paragraphs 0070-0077): the mobile phone comprises a removable storage card 54 that receives e-mails sent, and stores the attachment files of received e-mails, besides, the features play the same role in D3 as in this invention, both for storing attachment files in a removable storage, that is, D4 gives an enlightenment of applying the feature to the technical solution of claim 1 to further solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2 and D4. Therefore, when the claim as referred to has no inventiveness, dependent claim 4 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.
5. Claim 5 is dependent on claim 1, and additional technical feature of its characterizing portion is well known in this field, the user can select the attachment

files desired to be received from a plurality of attachment files, or filter those not desired to be received, both result in the acceptable attachment files, under the condition that the transferring conditions can be set, persons skilled in the art will easily conceive of setting the types of attachment files that are not desired to be received, and it is obvious for them to apply this common knowledge. Therefore, when the claim as referred to has no inventiveness, dependent claim 5 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.

6. Claim 6 does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law. D1 discloses a communication terminal, and specifically discloses the following technical features (see the Description: paragraphs 0001, 0010 - 0025, 0034 - 0044; claims 4 - 11; Fig. 1): said terminal comprises a device for obtaining the identification information of the communication terminal, said information indicates the type of an attachment file of e-mail that can be received by the communication terminal; a device that sends said information from the communication terminal to the e-mail provision apparatus; and a device that receives e-mails from the e-mail provision apparatus. It can be seen that most technical features of claim 6 are disclosed in D1.

Claim 6 is distinguished from D1 in that the type of attachment file of e-mail is the one that the user desires to receive, i.e., the receiving conditions are defined by the user, while in D1, the type of attachment file is the one that can be displayed by the communication terminal itself. However, this distinguishing feature has been disclosed in D2 as follows (see the Description: page 2, lines 5-23; page 6, line 3 - page 7, line 14): the user device inputs object character strings and the destination as the transferring conditions, the e-mail transferring device determines that the received e-mail conforms to the transferring conditions when it contains the object character strings that are used as the transferring conditions, and sends it to the destination, besides, this feature plays the same role in D2 as in this invention, both for inputting transferring conditions by the user, that is, D2 gives an enlightenment of applying the feature to D1 to solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2. Therefore, the claimed technical solution does not have a prominent substantive feature, or an obvious progress, and hence not possess inventiveness.

7. Claim 7 is dependent on claim 6, and the additional technical features of its characterizing portion have been disclosed in D3 as follows (see the Description: page 2, lines 3-23; page 4 line 9 - page 8 line 5; claims 1-2): the mobile terminal comprises a device for sending a delivery message acquisition request to capture e-mails, a first information business message, a second information business message, etc. that are sent to the terminal, the request contains the type information of the information to be obtained by the mobile terminal, besides, the features play the same role in D3 as in this invention, both for the communication terminal to request obtaining the information of specific types, that is, D3 gives an

enlightenment of applying the feature to the technical solution of claim 6 to further solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2 and D3. Therefore, when the claim as referred to has no inventiveness, dependent claim 7 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.

8. Claim 8 is dependent on claim 6, and the additional technical feature of its characterizing portion is a common knowledge in this field that the communication terminal can display text, image, etc. as per its functions, and when users desire to know the types of files available at the terminal, persons skilled in the art will easily conceive of displaying these file types, and the use of the common known knowledge is obvious for the skilled persons. Therefore, when the claim as referred to has no inventiveness, dependent claim 8 also not does possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.
9. Claim 9 is dependent on claim 6, and the additional technical features of its characterizing portion have been disclosed in D4 as follows (see the Description: Paragraphs 0070-0077): the mobile phone comprises a removable storage card 54 that receives e-mails sent, and stores the attachment files of received e-mails, besides, the features play the same role in D3 as in this invention, both for storing attachment files in a removable storage, that is, D4 gives an enlightenment of applying the feature to the technical solution of claim 6 to further solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2 and D4. Therefore, when the claim as referred to has no inventiveness, dependent claim 9 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.
10. Claim 10 is dependent on claim 6, and additional technical feature of its characterizing portion is well known in this field, the user can select the attachment files desired to be received from a plurality of attachment files, or filter those not desired to be received, both result in the acceptable attachment files, under the condition that the transferring conditions can be set, persons skilled in the art will easily conceive of setting the types of attachment files that are not desired to be received, and it is obvious for them to apply these common knowledge. Therefore, when the claim as referred to has no inventiveness, dependent claim 10 also does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law.
11. Claim 11 does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law. D1 discloses an e-mail provision apparatus, and specifically discloses the following technical features (see the Description: paragraphs 0001, 0010 - 0025, 0034 - 0044; claims 4 - 11; Fig. 1):

said e-mail provision apparatus comprises a device for receiving the identification information from the communication terminal, said information indicates the type of attachment file of e-mail that can be received by the communication terminal; an obtaining restraint device 13 in the e-mail provision apparatus determines whether the type of an attachment file of e-mail, which is destined for the communication terminal, is identical to that identified by the information; a transferring device 12 that sends an e-mail except the attachment file from the e-mail provision apparatus to the communication terminal when the type of attachment file is inconsistent with that identified by the information, and sends the e-mail completely to the communication terminal when the type of attachment file is consistent with that identified by the information. Thus it can be seen that most technical features of claim 11 have been disclosed in D1.

Claim 11 is distinguished from D1 in that the type of attachment file of e-mail is the one that the user desires to receive, i.e., the receiving conditions are defined by the user, while in D1, the type of an attachment file is the one that can be displayed by the communication terminal itself. However, this distinguishing feature has been disclosed in D2 as follows (see the Description: page 2, lines 5-23; page 6, line 3 - page 7, line 14): the user device inputs the object character strings and the destination as the transferring conditions, the e-mail transferring device determines that the received e-mail conform to the transferring conditions when it contains the object character strings that are used as the transferring conditions, and sends it to the destination, besides, this feature plays the same role in D2 as in this invention, both for inputting transferring conditions by the user, that is, D2 gives an enlightenment of applying the feature to D1 to solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2. Therefore, the claimed technical solution does not have a prominent substantive feature, or an obvious progress, and hence not possess inventiveness.

12. Claim 12 does not possess inventiveness as demanded under Article 22, Paragraph 3 of the Chinese Patent Law. D1 discloses a method for an e-mail provision apparatus to deliver e-mails to a communication terminal, and specifically disclosed the following technical features (see the Description: paragraphs 0001, 0010 - 0025, 0034 - 0044; claims 4 - 11; Fig. 1): to receive the identification information from the communication terminal, said information indicating the type of attachment file of e-mail that can be received by the communication terminal; an obtaining restraint device 13 in the e-mail provision apparatus that determines whether the type of an attachment file of e-mail, which is destined for the communication terminal, is identical to that identified by the information; when the type of attachment file is inconsistent with that identified by the information, the e-mail will be sent from the e-mail provision apparatus to the communication terminal except the attachment file, and when the type of attachment file is consistent with that identified by the information, the e-mail will be sent to the communication terminal completely. Thus it can be seen that most technical features of claim 12 have been disclosed in D1.

Claim 12 is distinguished from D1 in that the type of attachment file of e-mail is the one that the user desires to receive, i.e., the receiving conditions are defined by the user, while in D1, the type of an attachment file is the one that can be displayed by the communication terminal itself. However, this distinguishing feature has been disclosed in D2 as follows (see the Description: page 2, lines 5-23; page 6, line 3 - page 7, line 14): the user device inputs the object character strings and the destination as the transferring conditions, the e-mail transferring device determines that the received e-mail conforms to the transferring conditions when it contains the object character strings that are used as the transferring conditions, and sends it to the destination, besides, this feature plays the same role in D2 as in this invention, both for inputting transferring conditions by the user, that is, D2 gives an enlightenment of applying the feature to D1 to solve its technical problem. Thus it is obvious that persons skilled in the art can obtain the claimed technical solution basing on D1 and in combination with D2. Therefore, the claimed technical solution does not have a prominent substantive feature or an obvious progress, and hence not possess inventiveness.

In view of the above reasons, none of the claims in the application possesses novelty or inventiveness as demanded under the Chinese Patent Law, and there is no other substantial contents deserving a patent grant in the Description. Therefore, even if the applicant re-organized the claims and / or made further definitions in terms of the Description, the application would not possess a prospect of being granted the patent right either. If the applicant could not furnish convincing reasons testifying to novelty and inventiveness of the present application within the time limit specified in this Office Action, the present application would be rejected.


Examiner: Sihua LV
Code: 3422



中华人民共和国国家知识产权局

P04JP114788

5400

| | |
|--|---|
| 100032 北京市金融街 35 号国际企业大厦 A 座 16 层 北京三友知识产权代理有限公司 李辉 | 发文日 |
| 申请号: 038130882 |  |
| 申请人: 株式会社 NTT 都科摩 | |
| 发明名称: 电子邮件分发方法, 通信终端和服务装置 | |



第一次审查意见通知书

(进入国家阶段的 PCT 申请)

- ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局专利局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以在:
JP 专利局的申请日 2002 年 06 月 06 日为优先权日,
专利局的申请日 年 月 日为优先权日,
专利局的申请日 年 月 日为优先权日。
- ☐ 申请人于 年 月 日和 年 月 日以及 年 月 日提交了修改文件。
经审查, 申请人于 年 月 日提交的 不符合专利法实施细则第 51 条第 1 款的规定。
☐
- ☒ 审查是针对原始提交的国际申请的中文译文进行的。
☐ 审查是针对下述申请文件进行的:
☐ 说明书 第 页, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 页, 按照专利性国际初步报告附件的中文文本;
第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 页, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 页, 按照 年 月 日所提交的修改文件。
☐
☐ 权利要求 第 项, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 项, 按照依据专利合作条约第 19 条规定所提交的修改文件的中文文本;
第 项, 按照专利性国际初步报告附件的中文文本;
第 项, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 项, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 项, 按照 年 月 日所提交的修改文件。
☐
☐ 附图 第 页, 按照进入中国国家阶段时提交的国际申请文件的中文文本;
第 页, 按照专利性国际初步报告附件的中文文本;
第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;
第 页, 按照依据专利法实施细则第 51 条第 1 款规定所提交的修改文件;
第 页, 按照 年 月 日所提交的修改文件。





☒ 本通知书引用下述对比文件(其编号在今后的审查过程中继续沿用):

| 编号 | 文件号或名称 | 公开日期 (或抵触申请的申请日) |
|----|---------------|------------------|
| 1 | JP11272582A | 1999-10-08 |
| 2 | CN1303201A | 2001-07-11 |
| 3 | CN1293851A | 2001-05-02 |
| 4 | JP2002149458A | 2002-05-24 |

5. 审查的结论性意见:

☒ 关于说明书:

- ☐ 申请的内容属于专利法第 5 条规定的不授予专利权的范围。
- ☐ 说明书不符合专利法第 26 条第 3 款的规定。
- ☐ 说明书不符合专利法第 33 条的规定。
- ☐ 说明书的撰写不符合专利法实施细则第 18 条的规定。

☒ 关于权利要求书:

- ☐ 权利要求 不具备专利法第 22 条第 2 款规定的新颖性。
- ☒ 权利要求 1-12 不具备专利法第 22 条第 3 款规定的创造性。
- ☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。
- ☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。
- ☐ 权利要求 不符合专利法第 26 条第 4 款的规定。
- ☐ 权利要求 不符合专利法第 31 条第 1 款的规定。
- ☐ 权利要求 不符合专利法第 33 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 2 条第 1 款的规定。
- ☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。
- ☐ 权利要求 不符合专利法实施细则第 20 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 21 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 22 条的规定。
- ☐ 权利要求 不符合专利法实施细则第 23 条的规定。

☐ 分案的申请不符合专利法实施细则第 43 条第 1 款的规定。

上述结论性意见的具体分析见本通知书的正文部分。

6. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。
- ☐ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。
- ☒ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。



7. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。
- (2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。
- (3) 申请人的意见陈述书和 / 或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。
- (4) 未经预约, 申请人和 / 或代理人不得前来国家知识产权局专利局与审查员举行会晤。

8. 本通知书正文部分共有 6 页, 并附有下列附件:

☒ 引用的对比文件的复印件共 4 份 29 页。



审查员: 吕四化(3422)

2007 年 4 月 6 日



审查部门

通信审查部

21302
2006. 7



回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收
(注: 凡寄给审查员个人的信函不具有法律效力)

第一次审查意见通知书正文

申请号：038130882

本申请涉及向通信终端分发带有文件附件的电子邮件。经审查，具体意见如下。

1、权利要求1不具备专利法第二十二条第三款规定的创造性。对比文件1（JP11272582A，参见说明书第0001段，第0010段-0025段，第0034段-0044段，权利要求4-11，附图1）公开了一种从电子邮件提供设备向通信终端发送带有附件的电子邮件的电子邮件分发方法，并具体公开了以下技术特征，获取通信终端的标识信息，所述信息表示了通信终端有能力接收的电子邮件附件的格式；将所述信息从通信终端发送到电子邮件提供设备；电子邮件提供设备接收所述信息；电子邮件提供设备中的获取限制装置13判断所接收到的要发送给通信终端的电子邮件的附件类型是否与所述信息的文件格式一致；如果电子邮件的附件类型与所述信息表示的文件格式不一致，则从电子邮件提供装置向通信终端发送除了所述附件的电子邮件，而如果电子邮件的附件类型与所述信息表示的文件格式一致，则将电子邮件发送给通信终端。由此可见，对比文件1公开了该权利要求的大部分技术特征。

该权利要求与对比文件1的区别在于：所述附件类型是用户希望接收的附件类型，即由用户设定接收条件，而对比文件1中的附件类型是通信终端本身能够显示的附件类型，但该区别特征已被对比文件2（CN1303201A，参见说明书第2页第5-23行，第6页第3行至第7页第14行）公开，客户装置将对象字符串和传送目的地作为传送条件来输入，电子邮件传送装置在确认接收到的电子邮件中包括作为传送条件的对象字符串时，判定为与传送条件一致，将该电子邮件传送到目的地，而且该特征在对比文件2中所起的作用与其在本发明中为解决其技术问题所起的作用相同，都是用于由用户输入传送条件，也就是说对比文件2给出了将该技术特征用于该对比文件1以解决其技术问题的启示。由此可知，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，对本领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案不具有突出的实质性特点和显著的进步，因而不具备创造性。

2、从属权利要求2是权利要求1的从属权利要求，其限定部分附加技术特征已在对比文件3（CN1293851A，参见说明书第2页3-23行，第4页第9行至第8页第5行，权利要求1-2）中相应地公开了，从移动终端向服务器发送传递消息捕获请求，获取要

发送给所述终端的邮件、第一信息业务消息、第二信息业务消息等，所述请求包含移动终端要获取的消息的类型信息，且其在对比文件3中所起的作用与其在本发明中所起的作用相同，都是用于通信终端请求获取特定类型的接收信息，即该对比文件给出了将上述附加技术特征应用到所引用的权利要求1的技术方案以进一步解决其技术问题的启示，由此可知在对比文件1的基础上结合对比文件2、3得出该权利要求进一步限定的技术方案，对本领域的技术人员来说是显而易见的，因而在其引用的权利要求不具备创造性的情况下，该从属权利要求不具备专利法第二十二条第三款规定的创造性。

3、权利要求3是权利要求1的从属权利要求，其限定部分的附加技术特征是所述技术领域中的公知常识，通信终端可以根据其功能显示文本、图像等内容，在用户希望获知该终端可用文件类型的时候，本领域技术人员很容易想到将这些文件类型显示出来，这些公知常识的使用对本领域的技术人员来说是显而易见的，在其引用的权利要求1不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

4、从属权利要求4是权利要求1的从属权利要求，其限定部分附加技术特征已在对比文件4（JP2002149458A，参见说明书第0070-0077段）中相应地公开了，手机包括可拆卸的存储器卡54，在手机中接收发送的电子邮件，并将接收到的电子邮件的附件存储在存储器卡54中，且其在对比文件4中所起的作用与其在本发明中所起的作用相同，都是用于将附件存储在可拆卸的存储器中，即该对比文件给出了将上述附加技术特征应用到所引用的权利要求1的技术方案以进一步解决其技术问题的启示，由此可知在对比文件1的基础上结合对比文件2、4得出该权利要求进一步限定的技术方案，对本领域的技术人员来说是显而易见的，因而在其引用的权利要求不具备创造性的情况下，该从属权利要求不具备专利法第二十二条第三款规定的创造性。

5、权利要求5是权利要求1的从属权利要求，其限定部分的附加技术特征是所述技术领域中的公知常识，用户可以从多种附件中选择希望接收的附件，也可以从中滤除掉不希望接收的附件，其结果都是得到了可以接受的附件，在已知可以进行传输条件设定的情况下，本领域技术人员很容易想到设定不希望接收的附件类型，这些公知常识的使用对本领域的技术人员来说是显而易见的，在其引用的权利要求1不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

6、权利要求6不具备专利法第二十二条第三款规定的创造性。对比文件1

(JP11272582A, 参见说明书第0001段, 第0010段-0025段, 第0034段-0044段, 权利要求4-11, 附图1)公开了一种通信终端, 并具体公开了以下技术特征, 所述终端包括获取通信终端的标识信息的装置, 所述信息表示了通信终端有能力接收的电子邮件附件的格式; 将所述信息从通信终端发送到电子邮件提供设备的装置; 从电子邮件提供设备接收电子邮件的装置。由此可见, 对比文件1公开了该权利要求的大部分技术特征。

该权利要求与对比文件1的区别在于: 所述附件类型是用户希望接收的附件类型, 即由用户设定接收条件, 而对比文件1中的附件类型是通信终端本身能够显示的附件类型, 但该区别特征已被对比文件2(CN1303201A, 参见说明书第2页第5-23行, 第6页第3行至第7页第14行)公开, 客户装置将对象字符串和传送目的地作为传送条件来输入, 电子邮件传送装置在确认接收到的电子邮件中包括作为传送条件的对象字符串时, 判定为与传送条件一致, 将该电子邮件传送到目的地, 而且该特征在对比文件2中所起的作用与其在本发明中为解决其技术问题所起的作用相同, 都是用于由用户输入传送条件, 也就是说对比文件2给出了将该技术特征用于该对比文件1以解决其技术问题的启示。由此可知, 在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案, 对本领域的技术人员来说是显而易见的, 因此该权利要求所要求保护的技术方案不具有突出的实质性特点和显著的进步, 因而不具备创造性。

7、从属权利要求7是权利要求6的从属权利要求, 其限定部分附加技术特征已在对比文件3(CN1293851A, 参见说明书第2页3-23行, 第4页第9行至第8页第5行, 权利要求1-2)中相应地公开了, 移动终端包括向服务器发送传递消息捕获请求的装置, 获取要发送给所述终端的邮件、第一信息业务消息、第二信息业务消息等, 所述请求包含移动终端要获取的消息的类型信息, 且其在对比文件3中所起的作用与其在本发明中所起的作用相同, 都是用于通信终端请求获取特定类型的接收信息, 即该对比文件给出了将上述附加技术特征应用到所引用的权利要求6的技术方案以进一步解决其技术问题的启示, 由此可知在对比文件1的基础上结合对比文件2、3得出该权利要求进一步限定的技术方案, 对本领域的技术人员来说是显而易见的, 因而在其引用的权利要求不具备创造性的情况下, 该从属权利要求不具备专利法第二十二条第三款规定的创造性。

8、权利要求8是权利要求6的从属权利要求, 其限定部分的附加技术特征是所述技术领域中的公知常识, 通信终端可以根据其功能显示文本、图像等内容, 在用户

希望获知该终端可用文件类型的时候，本领域技术人员很容易想到将这些文件类型显示出来，这些公知常识的使用对本领域的技术人员来说是显而易见的，在其引用的权利要求6不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

9、从属权利要求9是权利要求6的从属权利要求，其限定部分附加技术特征已在对比文件4（JP2002149458A，参见说明书第0070-0077段）中相应地公开了，手机包括可拆卸的存储器卡54，在手机中接收发送的电子邮件，并将接收到的电子邮件的附件存储在存储器卡54中，且其在对比文件4中所起的作用与在本发明中所起的作用相同，都是用于将附件存储在可拆卸的存储器中，即该对比文件给出了将上述附加技术特征应用到所引用的权利要求6的技术方案以进一步解决其技术问题的启示，由此可知在对比文件1的基础上结合对比文件2、4得出该权利要求进一步限定的技术方案，对本领域的技术人员来说是显而易见的，因而在其引用的权利要求不具备创造性的情况下，该从属权利要求不具备专利法第二十二条第三款规定的创造性。

10、权利要求10是权利要求6的从属权利要求，其限定部分的附加技术特征是所述技术领域中的公知常识，用户可以从多种附件中选择希望接收的附件，也可以从中滤除掉不希望接收的附件，其结果都是得到了可以接受的附件，在已知可以进行传输条件设定的情况下，本领域技术人员很容易想到设定不希望接收的附件类型，这些公知常识的使用对本领域的技术人员来说是显而易见的，在其引用的权利要求不具备创造性的情况下，该从属权利要求也不具备专利法第二十二条第三款规定的创造性。

11、权利要求11不具备专利法第二十二条第三款规定的创造性。对比文件1（JP11272582A，参见说明书第0001段，第0010段-0025段，第0034段-0044段，权利要求4-11，附图1）公开了一种电子邮件提供设备，并具体公开了以下技术特征，所述电子邮件提供设备包括用于从通信终端接收标识信息的装置，所述信息表示了通信终端有能力接收的电子邮件附件的格式；电子邮件提供设备中的获取限制装置13判断所接收到的要发送给通信终端的电子邮件的附件类型是否与所述信息的文件格式一致；传送装置12，如果电子邮件的附件类型与所述信息表示的文件格式不一致，则从电子邮件提供装置向通信终端发送除了所述附件的电子邮件，而如果电子邮件的附件类型与所述信息表示的文件格式一致，则将电子邮件发送给通信终端。由此可见，对比文件1公开了该权利要求的大部分技术特征。

该权利要求与对比文件1的区别在于：所述附件类型是用户希望接收的附件类

型，即由用户设定接收条件，而对比文件1中的附件类型是通信终端本身能够显示的附件类型，但该区别特征已被对比文件2（CN1303201A，参见说明书第2页第5-23行，第6页第3行至第7页第14行）公开，客户装置将对象字符串和传送目的地作为传送条件来输入，电子邮件传送装置在确认接收到的电子邮件中包括作为传送条件的对象字符串时，判定为与传送条件一致，将该电子邮件传送到目的地，而且该特征在对比文件2中所起的作用与其在本发明中为解决其技术问题所起的作用相同，都是用于由用户输入传送条件，也就是说对比文件2给出了将该技术特征用于该对比文件1以解决其技术问题的启示。由此可知，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，对本领域的技术人员来说是显而易见的，因此该权利要求所要求保护的技术方案不具有突出的实质性特点和显著的进步，因而不具备创造性。

12、权利要求12不具备专利法第二十二条第三款规定的创造性。对比文件1（JP11272582A，参见说明书第0001段，第0010段-0025段，第0034段-0044段，权利要求4-11，附图1）公开了一种用于电子邮件提供设备向通信终端传送电子邮件的方法，并具体公开了以下技术特征，从通信终端接收标识信息，所述信息表示了通信终端有能力接收的电子邮件附件的格式；电子邮件提供设备中的获取限制装置13判断所接收到的要发送给通信终端的电子邮件的附件类型是否与所述信息的文件格式一致；如果电子邮件的附件类型与所述信息表示的文件格式不一致，则从电子邮件提供装置向通信终端发送除了所述附件的电子邮件，而如果电子邮件的附件类型与所述信息表示的文件格式一致，则将电子邮件发送给通信终端。由此可见，对比文件1公开了该权利要求的大部分技术特征。

该权利要求与对比文件1的区别在于：所述附件类型是用户希望接收的附件类型，即由用户设定接收条件，而对比文件1中的附件类型是通信终端本身能够显示的附件类型，但该区别特征已被对比文件2（CN1303201A，参见说明书第2页第5-23行，第6页第3行至第7页第14行）公开，客户装置将对象字符串和传送目的地作为传送条件来输入，电子邮件传送装置在确认接收到的电子邮件中包括作为传送条件的对象字符串时，判定为与传送条件一致，将该电子邮件传送到目的地，而且该特征在对比文件2中所起的作用与其在本发明中为解决其技术问题所起的作用相同，都是用于由用户输入传送条件，也就是说对比文件2给出了将该技术特征用于该对比文件1以解决其技术问题的启示。由此可知，在对比文件1的基础上结合对比文件2得出该权利要求所要求保护的技术方案，对本领域的技术人员来说是显而易见的，因此该权

利要求所要求保护的技术方案不具有突出的实质性特点和显著的进步，因而不具备创造性。

基于上述理由，该申请的权利要求不能被授予专利权，同时说明书中也没有记载其他任何可以授予专利权的实质性内容，因而即使申请人对权利要求进行重新组合和/或根据说明书记载的内容作进一步的限定，该申请也不具备被授予专利权的前景。除非申请人能够在本通知书指定的答复期限内提出表明该申请具有新颖性和创造性的充分理由，否则该申请将被驳回。

审查员：吕四化

代码：3422

